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C O N F I D E N T I A L MANILA 005396

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SUBJECT: NOVEMBER 18 UPDATE ON ALLEGED RAPE CASE

REF: A. STATE 210275

[1](#)B. MANILA 5371

[1](#)C. MANILA 5348

Classified By: CDA Paul W. Jones for reasons 1.4 (b) and (d)

[1](#)1. (C) Summary. The six U.S. Marines under investigation in the alleged rape case have been moved to the U.S. Embassy compound as of November 18. NCIS investigators have offered their cooperation to GRP authorities but have only received access to one witness (the driver of the van) so far. CDA has reiterated request to DFA for full cooperation from and access to witnesses and evidence by US investigators. The media attention to the case has continued, most recently fueled by the November 17 Congressional hearing into the custody provisions of the Visiting Forces Agreement. With the Marines now more likely to have to appear before prosecutors on November 23, according to their lawyers, the media attention and security concerns will intensify. End Summary.

[1](#)2. (C) The Marines moved to the Chancery compound on November 18 (ref a). Visiting Forces Agreement (VFA) Commission Executive Director Zosimo Paredes requested access to the Marines in their new location, and the opportunity to photograph them there. Emboffs informed Paredes that he may see the Marines in a Chancery conference room, but not where they are billeted. We will not permit them to be photographed. Emboffs also reiterated to Paredes the lack of access by NCIS investigators to witnesses and evidence in the case and reiterated our verbal and written requests for such cooperation, as provided for under the VFA.

[1](#)3. (C) Olongapo City prosecutor Prudencio Jalandoni assured NCIS chief Beltz on November 17 that he and his staff would cooperate with the parallel NCIS investigation in this case. With the assistance of VFA's Paredes, NCIS met on November 16 with the driver of the van in which the rape is alleged to have occurred, and took a statement from him. Jalandoni indicated no objection to NCIS access to the alleged victim but noted that the victim's lawyer had prevented even the prosecutors from interviewing her so far. Jalandoni also agreed that NCIS should have access to the doctor who initially examined the victim and other key witnesses, as well as well as to physical evidence. Jalandoni added that Justice Secretary Gonzalez was "elated" with NCIS' offer of assistance in proceeding on the investigations. However, Jalandoni's staff was unable to make any such arrangements for NCIS on November 18. NCIS chief Beltz will meet again with Jalandoni on November 19 to reiterate these requests. CDA renewed these requests for cooperation on November 18 to Assistant Secretary of Foreign Affairs Abadilla, who offered personally to work with NCIS to make such arrangements. NCIS is now in direct contact with Abadilla with a list of desired interviews and requests to view evidence. Embassy has also requested a separate meeting with Justice Secretary Gonzalez to discuss cooperation in this case, as well as other issues.

[1](#)4. (C) The media attention to the case continues, now fueled by a November 17 hearing by the Congressional VFA Oversight Committee, specifically with regard to the arrangements for custody under the agreement. Secretary Gonzalez, Director Paredes and Acting Foreign Secretary Seguis were all grilled by a bicameral panel of legislators seeking to assign blame for the fact that the Marines are in U.S. custody. Senator and Foreign Relations Committee Chairperson Miriam Defensor-Santiago, a strong ally of President Arroyo, was particularly aggressive in her questioning. CDA attempted repeatedly to talk privately with Santiago on November 18 to underscore US commitment to VFA provisions and the need for cooperation between the two investigative teams, but was unable to make contact.

[1](#)5. (C) According to a lawyer for one of the Marines, the prosecutor's office will require the physical presence of the Marines with the submission of their counter-affadavits, now due on November 23 (the date initially set for a hearing by the subpoenas). Embassy has not been able to confirm this; Jalandoni had indicated to NCIS chief Beltz on November 17 that he did not/not believe the Marines needed to appear in person. Embassy plans to meet with lawyers for the Marines

on November 21 to discuss the possible appearance of the suspects in public, and necessary media and security arrangements should they travel to Olangapo.
Jones